

Docket No.: CIT/K-0146

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Confirmation No.: 5077

Sergey DOUDNIKOV, Serrguei GORELIK
and Anton KARKLIT

Group Art Unit: 2621

Serial No.: 09/853,044

Examiner: Shefali D. PATEL

Filed: 5/11/2001

Customer No.: 34610

For: APPARATUS AND METHOD FOR DISPLAYING THREE-DIMENSIONAL
IMAGE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

U.S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this Request. Further, this Request is being filed with a Notice of Appeal.

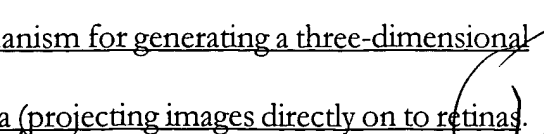
The review is requested for the reasons set forth in the Remarks below.

REMARKS

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,917,460 to Kodama (hereinafter “Kodama”) in view of U.S. Patent No. 6,795,241 to Holzbach (hereinafter “Holzbach”). There are clear substantive errors in this rejection. Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness, as required under 35 U.S.C. § 103.

The claims recite an aspectogram for generating a three-dimensional image in space from multiple two-dimensional microimages, and a device for manipulating the two-dimensional microimages in response to detected movement of an observer. One of the criteria for establishing a *prima facie* case of obviousness is that there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings (see MPEP § 2143).

The Examiner utilizes Kodama as a primary reference in support of the 35 U.S.C. § 103(a) rejection. Kodama teaches the use of two LCD displays that are mounted onto an observers head and are used to project images directly onto the left and right retinas of a user, in order to create a virtual image of a scene. This is a completely different mechanism for generating a three- dimensional virtual image than that taught and claimed in the present invention. The Examiner then asserts that the Holzbach reference, which is directed at an integral photography method for generating a three-dimensional scene, provides motivation for combining the disclosed integral photography method with the Kodama system. Holzbach teaches the use of a completely different physical mechanism for generating a three-dimensional scene (integral photograph) than that taught by Kodama (projecting images directly on to retinas).



Applicants fail to understand how one could find any motivation in Holzbach to combine the system taught in Holzbach with the head-mounted LCD-based image display system taught in Kodama. Applicants have reviewed the Holzbach and Kodama references extensively, and cannot find any teaching as to how the lenticular lens sheets used in Holzbach could be incorporated in the head-mounted image display system of Kodama without completely changing the principle of operation of Kodama's device.

In fact, the MPEP addresses just this situation. See MPEP § 2143.01, which states that if a "proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." *In re Rattii*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Applicants respectfully submit that combining the integral photography method taught in Holzbach with the head-mounted display system of Kodama would completely change the principle of operation of the Kodama system. Put another way, utilizing the lenticular lens sheets of Holzbach in place of the LCD displays in Kodama would not only change the principle of operation of the Kodama system, but would in fact render the Kodama display system inoperable. This is because the Kodama system relies on images being projected directly on to the left and right retinas of a user. The lenticular lens sheets of Holzbach generate a three-dimensional scene in space by synthesizing multiple two-dimensional images. Thus, as indicated in MPEP § 2143.02, the teachings of the Kodama and Holzbach references are not sufficient to render the claims *prima facie* obvious.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that there are clear errors in the Examiner's rejections. Specifically, the Examiner has failed to provide proper motivation to combine the Kodama and Holzbach references, and thus has failed to establish a *prima facie* case of obviousness. Accordingly, Applicants respectfully submit that this application is in condition for allowance. Thus, prompt withdrawal of the outstanding rejections under 35 U.S.C. § 103(a), and allowance of the pending claims are respectfully requested.

Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP

A handwritten signature in black ink, appearing to read 'Rene A. Vazquez', is written over the printed name and firm name.

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